

**RULES AND REGULATIONS OF THE LICENSE COMMISSION OF THE CITY OF
LOWELL GOVERNING LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES
AND MALT BEVERAGES AND WINES**

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**RULES AND REGULATIONS OF THE LICENSE COMMISSION OF THE CITY OF LOWELL
GOVERNING LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES AND MALT
BEVERAGES AND WINES**

1. Any licensee for the sale of alcoholic beverages who commits or permits any violation or infraction of any regulation of the Lowell License Commission or the Alcoholic Beverages Control Commission or any provision of Chapter 138 of the General Laws of Massachusetts (Liquor Control Act) shall be subject to modification, suspension, cancellation, revocation or forfeiture of the license granted and issued by the Lowell License Commission.
2. All members of the Lowell Police Department and all members of the State Police of the Commonwealth of Massachusetts assigned to duty in the City of Lowell are agents of the Lowell License Commission with authority to enter the premises of any licensee at any time to ascertain the manner in which the licensed business is conducted.
3. The License Commission considers the prompt payment of federal, state and city tax obligations essential to the proper conduct of a business licensed to sell alcoholic beverages. Upon receiving complaint from federal, state or city authorities that a licensee is remiss in any of its tax obligations, the License Commission will take such disciplinary measures as seem appropriate.
4. Licensees shall request the approval of the License Commission and if so granted, receive the approval of the Alcoholic Beverages Control Commission prior to undertaking the following transactions:
 - a) transfer a license to an individual, partnership or corporation;
 - b) transfer, pledge or assign stock in a corporation licensed to sell alcoholic beverages;
 - c) transfer a license to new premises;
 - d) change the corporate manager, officers and/or directors;
 - e) change the physical description of the licensed premises as set forth on the license.
5. The pledge or assignment of stock in a corporation and the pledge of inventory as collateral for a loan for the purpose of safeguarding the pledgee or assignee does not give the pledgee or assignee the right to conduct the business of the licensee. Licensees shall notify the License Commission, immediately, when the pledgee or assignee forecloses under the agreement established for such pledge or assignment.
6. Licensees shall immediately notify the License Commission of any proceedings brought by or against them under the Bankruptcy Laws.

7. A corporation that is licensed to sell or deliver alcoholic beverages shall submit, annually, a copy of its Annual Report of Condition filed with the Secretary of State for its last fiscal year to the License Commission. The copy of the Annual Report of Condition shall be filed with the License Commission no later than the month November at such time when the corporate manager files a renewal affidavit for the same type of license for the next calendar year.

8. Hotel, restaurant, club, and tavern licensees:

section 12 of Chapter 138 of the General Laws of Massachusetts states, in part, the following: any such licensee and his employees shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making emergency repairs to, or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner.

Therefore, a patron of a hotel who is not registered to occupy a private room, or a patron of a restaurant or tavern, or a club member and his/her guest(s) shall not be permitted to be on the licensed premises after the legal closing time for the sale and service of alcoholic beverages to the next legal opening time for the sale and service of same. Whereas, a licensee and/or employees shall be permitted on said premises for one hour after the legal closing time, and unless said individuals are specifically engaged in an activity as outlined in section 12 as stated above of Chapter 138, G.L.M., they shall not be permitted to be on the premises thereafter.

Under no circumstances shall any person be sold, served or allowed to consume alcoholic beverages on the licensed premises after the legal closing time to the next legal opening time.

No licensee, holding a license granted under section 12 of Chapter 138, G.L.M., shall allow alcoholic beverages to be removed from the licensed premises at any time.

9. Hotels, Restaurants, and Clubs may sell alcoholic beverages Monday through Saturday from 8:00 a.m. to 2:00 a.m.; Sundays, Memorial Day, and Christmas Day from 11:00 a.m. to 2:00 a.m.

Taverns may sell alcoholic beverages Monday through Saturday from 8:00 a.m. to 1:00 a.m.; Memorial Day and Christmas Day from 11:00 a.m. to 1:00 a.m.; no alcoholic beverages sold on Sundays.

Package Goods Stores may sell alcoholic beverages Monday through Saturday from 8:00 a.m. to 11:00 p.m., Sundays from 12:00 noon to 11:00 p.m., and may remain open to sell alcoholic beverages until 11:30 p.m. on the day immediately before a Massachusetts legal holiday exclusive of holidays recognized only in Suffolk County; no alcoholic beverages sold or delivered Memorial Day, Thanksgiving Day, Christmas Day.

10. Licensees are not to sell or serve alcoholic beverages to any person under 21 years of age nor are they to allow any employee under 18 years of age to engage in any manner in the sale, handling or delivery of alcoholic beverages.

11. No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance, indecency, prostitution, lewdness, gambling, or illegality (e.g. sale/possession of drugs w/o physician's prescription) of any kind to take place in or on the licensed premises or any premises connected therewith by an interior communication. The licensee shall be responsible therefore, whether present or not.

12. A license for the sale of alcoholic beverages as Hotel, Restaurant, Tavern or Club granted by the License Commission shall be issued when the premises where said license will be exercised comply with regulations of the Building, Fire and Health Departments of the City of Lowell. The License Commission shall allow a licensee a reasonable time to obtain the approvals of said departments prior to the issuance of said license.

13. Licensees shall at all time keep all parts of their licensed premises adequately and properly lighted as well as in a neat, clean and orderly fashion satisfactory to the License Commission.

14. Any licensee intending to close the licensed premises shall notify the License Commission in writing before closing, stating the reason and length of time for closing.

15. A licensee for the sale of alcoholic beverages to be consumed on the premises shall not sell such beverages, with the exception of malt beverages and wines, in bottles or original containers.

16. All orders for the delivery of alcoholic beverages received by a Package Goods Store licensee shall be delivered only by said licensee or employee(s) and only in a motor vehicle covered by an alcoholic beverage transport permit and registered to said licensee or employee. Under no circumstances shall said order be delivered in hand to a person under twenty-one (21) years of age.

17. Druggists licensed for the sale of alcoholic beverages or their employees shall not sell alcoholic beverages without first complying with the law relating to the keeping of a record book by Druggists and the signing of a certificate by the purchaser, as outlined in Chapter 138, sections 30D, 30E and 30F of the General Laws of Massachusetts.

Druggists may take orders for the delivery of alcoholic beverages only if the licensee complies with Regulation # 16.

18. Licensees for the sale of alcoholic beverages to be consumed on the premises shall be permitted to have musical entertainment and dancing provided that the entertainment is conducted in a manner that is not offensive or disturbing to the general neighborhood. Entertainment shall cease at the legal closing time for the sale of alcoholic beverages.

19. No amusement game device of any type or description, automatic or otherwise, shall be permitted on the premises of any hotel, restaurant, tavern or club licensed to sell alcoholic beverages unless such device has been approved by the Director of Standards.

The License Commission may grant, suspend, or revoke a license for automatic amusement device when it is in the public's interest to take such action.

20. Applications for special one-day license to sell all alcoholic beverages or malt beverages and wines, only, or any of them, may be granted by the Lowell License Commission to the responsible manager of an indoor or outdoor activity, and also to the responsible manager acting on behalf of a nonprofit organization for the same type of activity (Chapter 138, section 14, G.L.M.). The responsible manager, who must be a United States citizen and at least twenty-one (21) years of age, shall be the licensee of record. The responsible manager shall be liable for any violation of the Liquor Control Act, i.e. Chapter 138 of the General Laws of Massachusetts, the Commonwealth of Massachusetts Regulations of the Alcoholic Beverages Control Commission, and the rules and regulations of the Lowell License Commission.

The responsible manager shall take the necessary precautions to insure that no person who is not of legal drinking age, twenty-one (21) years of age or older, is sold, served or allowed to consume alcoholic beverages. Furthermore, the responsible manager shall also take the necessary precautions to insure that no person shall be served alcoholic beverages who is under the influence of alcohol or acts in a manner that may be interpreted as being under the influence of alcohol.

The responsible manager must purchase alcoholic beverages to be sold and served at the scheduled activity from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. Alcoholic beverages cannot be purchased from a package store for sale and service at the scheduled activity.

Special License for All Alcoholic Beverages may be issued by the License Commission only to a person acting on behalf of a nonprofit organization. No other person may be issued a special license to sell all alcoholic beverages.

Special License for Wine and/or Malt Beverages, or Both may be issued to a person who is conducting an activity or enterprise for profit.

No person may be granted special licenses for more than a total of 30 days per calendar year.

No special license under section 14 of Chapter 138, G.L.M., shall be granted to any person while his or her application for an annual license under section 12 of said chapter is pending before the License Commission. adopted: March 28, 1996

21. The License Commission shall set alcoholic beverages license fees in accordance with Chapter 138 of the General Laws of Massachusetts and special acts of the General Court.

22. Licenses and Fees for 2009

All Alcoholic Beverages [Chapter 138, Mass. General Laws]

Hotel	bank check	\$4,000.00annual
Restaurant	bank check	\$2,750.00annual
Club	bank check	\$3,250.00annual
Package Goods Store	bank check	\$2,225.00annual
Tavern	bank check	\$1,750.00annual
Druggist	bank check	\$600.00annual
Special all alcoholic beverages permit		\$125.00day
Special all alcoholic beverages permit		\$75.00-two hours or less

Malt Beverages and Wines

Restaurant	bank check	\$1,750.00annual
Package Goods Store	bank check	\$1,725.00annual
Special malt beverages & wines only, or either one		\$75.00day
Special malt beverages & wines only, or either one		\$30.00-two hours or less
Special malt beverages & wines only, or either one		\$10.00-fifteen minutes

Minor Licenses [Chapter 140, Mass. General Laws]

Innholder		\$75.00annual
Common Victualler		\$75.00annual

Automatic Amusement Device [Chapter 140, s. 177A M.G.L.]

Hotel, Restaurant and Club (per machine)		\$100.00annual
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Entertainment in a Licensed Restaurant or Hotel [Ch. 140, s 183A M.G.L.]

Live Musical, Disc Jockey, and Juke Box		\$100.00annual
Juke Box only		\$50.00Annual

23. Hotel, restaurant, club, tavern licensees licensed to sell/serve alcoholic beverages may have a cover charge in accordance with M.G.L. chapter 140, section 183D, Minimum or cover charge: No innholder, common victualler or person owning, managing or controlling a café, restaurant, or other eating or drinking establishment shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such innholder, common

victualler or person owning, managing or controlling a café, restaurant or other eating or drinking establishment shall require a person under thirteen years of age to pay a minimum charge or cover charge. Whoever violates this section shall be punished by a fine of not more than fifty dollars.

and 204 CMR 2.00 Regulations of the Alcoholic Beverages Control Commission 204-2.16: Cover Charge

(1) The posting of a "cover charge" shall be made in accordance with M.G.L.c.140 s. 183D. Said "cover charge" shall not be collected in advance of gaining entrance to the licensed premises, and can only be charged upon a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period not less than two years. For the purposes of 204 CMR 2.00, the term "cover charge" shall include all admission fees or admission charges, except that the sign required to be posted under M.G.L. c. 140 s. 183D shall, in the case of an admission fee or charge, be posted on the outside of the licensed premises. Nothing in 204 CMR 2.00 shall be construed to prohibit advanced ticket sales by any licensee under M.G.L. c. 138, s. 12.

(2) No minimum charge for the purchase of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a section twelve licensee. Any such licensee who charges a minimum charge for food and/or non-alcoholic beverages in accordance with the requirements of M.G.L. c. 140 s 183D shall include a specific statement in the posting required therein that there is no minimum charge for alcoholic beverages. Said minimum charge shall not be collected in advance of gaining entrance to licensed premises and can only be charged upon a written or printed receipt permanently recorded and numbered seriatim, presented to each individual customer or group of customers. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages.

24. Regulations approved June 8, 1995 relating to the sale or delivery of alcoholic beverages to intoxicated persons and motor vehicles violations related thereto:

a) Alcoholic abuse resulting in intoxication is a problem of major proportion. Such abuse and the subsequent operation of a motor vehicle is a violation of law and a danger to the lives and safety not only of the abuser, but also of the general public.

b) The sale or delivery of an alcoholic beverage to an intoxicated person is a violation of the Massachusetts General Laws, Chapter 138, section 69, and in violation of these regulations.

c) Upon receipt by the License Commission within an eighteen (18) month period of three (3) reports from the Middlesex County District Attorney's Office, or any other governmental agency, containing information provided to the court by an individual, that said individual was served alcohol at an establishment holding a liquor license in the City

of Lowell, prior to committing a motor violation involving operating under the influence of intoxicating liquor, the License Commission shall request the Lowell Police Department, in writing, to conduct an investigation into said allegations.

d) If the report of the police investigation warrants further action, the licensee will be notified of a hearing before the Lowell License Commission.

e) If after a hearing, the License Commission finds a violation of law or of its regulations relative to any liquor license, the license will be suspended for not less than three (3) days, nor more than six (6) days, for each offense (person).

f) After three (3) suspensions, the licensee will be notified of a hearing, to revoke its license.

g) After suspension or revocation, the licensee shall have a right to appeal the decision to the Alcoholic Beverages Control Commission as provided by law.

25. Regulation of the Lowell License Commission approved November 8, 2001:

All licensees for the sale and service of alcoholic beverages, either the individual, the partnership, the manager of record for a corporation (profit and non-profit) shall notify the Lowell Police Department immediately, by telephone or otherwise, when any violation of law, disorder, disturbance is taking place, or is about to take place on the licensed premises, or other premises approved by the License Commission for sale, service, and/or consumption of alcoholic beverages. A notification to the Lowell Police when a violation of law, disorder, disturbance is taking place, or is about to take place shall not have an adverse effect upon the licensee's record, provided that there is no finding of fact of a violation by the licensee. Any person employed by the licensee for the purpose of selling and/or serving alcoholic beverages or any person so engaged without compensation shall notify the Lowell Police in the absence of the licensee.

26. The License Commission disapproves requests to pledge license for the fact that the licensing board gives no monetary value to a liquor license; that in accordance with section 23 of Chapter 138 of the General Laws of Massachusetts, said license conveys no property right. Since January of 1988, the Lowell License Commission has maintained a policy of not permitting a license pledge, however, corporate stock when the applicant is a corporation or inventory may be pledged as collateral for a loan.

A decision to deny said pledge may be appealed to the Alcoholic Beverages Control Commission in accordance with section 67 of Chapter 138 of the General laws of Massachusetts within five (5) days upon receipt of notice of denial.

27. The Lowell License Commission is aware that corporate licensees invariably fail to retain a responsible person as Manager of Record for an extended period of time. Whenever an employee leaves his or her employment as Manager, it is incumbent upon the corporate directors to take action to present a suitable candidate as a replacement either in

anticipation of the current Manager's departure or within thirty days after an unexpected termination.

Massachusetts's law requires that a corporate liquor licensee retain a person responsible for the day-to-day business on the licensed premises. Failure to do so shall be cause for the local licensing authority to suspend the liquor license.

The Lowell License Commission [local licensing authority] and the Alcoholic Beverages Control Commission [Commonwealth of Massachusetts] by law are to approve a person proposed as Manager. The individual shall be twenty-one years of age or older, and shall be a citizen of the United States.

28. Notification to abutter, church, school

Within three (3) days after publication of the legal notice in the Lowell Sun newspaper, the applicant shall send or cause to be sent to the mailing address of each abutter, who owns property touching the applicant's premises, an original or true copy of the legal notice by certified mail, return receipt requested.

The list of abutters as determined by the City Assessors Office shall be made available upon completing the abutters list guidelines form. The Assessors Office has set a fee of \$15.00 for an abutters list.

The applicant shall present to the License Commission Office prior to the scheduled hearing all white postal receipts, and all green return receipts or the mailing envelope(s) determined to be undeliverable by the U.S. Postal Service.

An affidavit is to be signed by the applicant or person responsible for the mailing, attesting to having sent or caused to be sent the published legal notice. The signing of the affidavit is to be witnessed by a Notary Public.

A mailing of a legal notice is applicable to the authority of a school, church, synagogue, or hospital that is located within a radius of five hundred feet.* An applicant for a new license or for a change of location shall include a written statement to inform the appropriate authorities of the necessity of a written objection to prevent the issuance of the license.

* The Office of the City Engineer verifies distance figures.

29. Common Victualler license and Alcoholic Beverages license for restaurants, taverns (i.e. bars, nightclubs, neighborhood pubs)

Licensees for the sale of alcoholic beverages for on-premises consumption, restaurants and taverns, are licensed as common victuallers in accordance with sections 2 through 9, inclusive, of Chapter 140 of the General Laws of Massachusetts. The Lowell License Commission requires licensees to have the means to prepare food on the licensed premises. Implements for food preparation shall require compliance with Building, Health and Fire Prevention regulations. Implements for food preparation may not be uniform but shall allow the licensee to offer food prepared by one or more of the following: kitchen stove,

gas or electric, fryolater, microwave oven, toaster oven, pizza oven, and electric burner. Food that is subject to spoilage shall be stored in a refrigerator and/or freezer.

Licensees who have discontinued using a gas oven or fryolater shall have said implements disconnected and/or removed from the licensed premises in compliance with Building, Health and Fire Prevention regulations to insure public safety. Electrical and gas service required to safely operate anyone of the above implements for food preparation shall comply with state and local building code and fire regulations.

Licensees shall display a food menu on the licensed premises either by posting a sign or signs in a conspicuous place or by offering to patrons a printed menu, listing food items that are prepared on the premises, and the price for each item.

Regulation approved by the License Commission November 30, 1995.

Chapter 222

PEACE AND GOOD ORDER

§ 222-1. Alcoholic beverages.

- A. Definitions. As used in this section, the following terms shall have the meanings ascribed below:

ALCOHOLIC BEVERAGE — Any beverage defined as an alcoholic beverage in MGL c. 138, § 1.

DRINKING — To consume or to have opened or partially filled any container of alcoholic beverage on his person or under his immediate control.

PRIVATE PROPERTY — Any real property within the City which is not owned, leased or occupied by the City.

PUBLIC PROPERTY — Includes any public property of the City, such as streets, ways, sidewalks, commons, parks, playgrounds, reservoirs, Alumni Field, Cawley Stadium, municipal parking lots, and areas of any real property, building or office owned by or leased to the City or occupied or used by any board, department, committee, commission or office of the City.

- B. Drinking in public. No person shall consume (drink) any alcoholic beverages on any public property, public place, public way, etc., or any way to which the public has right of access as invitees.
- C. Possession of alcoholic beverages for drinking on public or private property. No person shall bring any alcoholic beverages onto any public property or onto any private property or possess for drinking any alcoholic beverages in or upon any public or private property without the permission of the owner or person lawfully in charge or control of such public or private property.
- D. Issuance of special permit. The drinking of alcoholic beverages on any park, playground or other public facility in the City shall be authorized and lawful upon the issuance of a special permit by the License Commission in accordance with the provisions and requirements indicated therein.
- E. Arrest for violating section; seizure of alcoholic beverages. Any person found in the act of violating the provisions of this section may be arrested by a police officer without a warrant. All alcoholic beverages being used, in possession or in control thereof in violation of any provision of this section shall be seized and safely held until final adjudication of the charges against the person or persons arrested or summoned before the court, at which time such alcoholic beverages not used for evidential analysis shall be returned to the person or persons entitled to lawful possession of such. Any person found guilty of violating this section shall be subject to a fine of \$10 for the first offense and \$50 for the second offense and \$50 for each and every subsequent offense thereafter.

§ 222-2. Nonalcoholic beverages. [Added 10-13-1992]

It shall be unlawful for any person, business, corporation or partnership to sell or cause to be sold, to any person under the age of 21, nonalcoholic beer, malt or wine, however much reduced. Furthermore, said beverages are to be sold only in establishments licensed to sell alcoholic beverages.

Regulation of the Alcoholic Beverages Control Commission

204 CMR 4.00

Prohibition of Certain Practices

204-4.03: Certain Practices Prohibited

(1) No licensee or employee or agent of a licensee shall:

(a) offer or deliver any free drinks to any person or group of persons;

(b) deliver more than two drinks to one person at one time;

(c) sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;

(d) sell, offer to sell or deliver to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;

(e) sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

(f) sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two or more persons at any one time;

(g) increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;

(h) encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

(2) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under 204 CMR 4.03.